

**REMARKS**

The final Action of October 28, 2003, has been carefully studied. Upon entry of the present amendment, the claims in the present application would be claims 1-3 and 6, only. Applicants submit that these claims are clearly patentable over the prior art for reasons already of record, on which applicants further elaborate below. Therefore, the present applicants respectfully request favorable reconsideration, entry of the amendments presented above, and allowance.

The rejections based on Okada and Roser under both §§102 and 103 have been repeated. The examiner has not addressed the fact that rejections on the basis of the same reference under both §§102 and 103 are inconsistent. Applicants again respectfully traverse these four rejections.

As can be seen from the amendments presented above, the applicants propose to amend claims 1-8 so as to incorporate the subject matter of claims 4, 5 and 7 into claim 1, along with the deletion of claims 4, 5, 7 and 8. As applicants believe that the claims as previously pending define novel and unobvious subject matter over the prior art, the claims as further proposed to be amended above do so even more.

As regards the rejections based on Okada, the PTO states that applicants' comments with regard to Okada are without merit because applicants' claims are all product claims independent of the method features discussed by applicants<sup>1</sup>. The PTO asserts that dried squid and dried shellfish in Okada are treated with high trehalose content syrup resulting in a food product equivalent to that claimed by applicants. But this is not so!

In Okada, dried squid and dried shellfish are indicated as food product to be sweetened by trehalose syrup (please see column 5, lines 61-62). It should be emphasized that dried squid sweetened by trehalose syrup is completely different from a squid heated and dehydrated in a concentrated aqueous trehalose solution **having a trehalose concentration of at least 50% at a temperature of at least 70°C**. It should be also emphasized that dried shellfish sweetened by trehalose syrup is completely different from a shellfish heated and dehydrated in a concentrate aqueous trehalose solution **having a trehalose concentration of at least 50% at a temperature of at least 70°C**.

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<sup>1</sup> Applicants respectfully submit that the PTO has not addressed and has not considered the fact, as pointed out in the penultimate paragraph on page 11 of the preceding Reply, that process recitations which serve to characterize the product must be given weight, noting *In re Luck et al*, 171 USPQ 523, 525 (CCPA 1973). It is fundamental that any recitation appearing in a claim which serves to define the invention must be given consideration. Applicants' process produces a unique product which simply does not exist in the prior art.

While Okada discloses at column 3, lines 15-20, a trehalose syrup having a concentration of 18.5 to 56.6% of trehalose, a food material non-fried and dehydrated in a concentrated aqueous trehalose solution at a temperature of at least 70°C, is never disclosed and cannot be obtained by following Okada.

Furthermore, it should be noted that dried squid and dried shellfish in Okada never simulate a fried food product in taste and mouth-feel. Dried squid and dried shellfish in Okada never retain the color tint inherent to the food material.

In view of these facts, it is believed that the claimed non-fried and dehydrated food product is not anticipated or made obvious by Okada. Reconsideration and withdrawal of the rejections based on Okada are respectfully but strongly solicited.

As regards the rejections based on Roser, the PTO states that Roser teaches that the addition of trehalose to proteinaceous foodstuffs enables such foodstuffs to be dried and heated.

However, it should be noted that enabling a food material to be dried and heated by the addition of trehalose is one thing, and heating and dehydrating a food material in a concentrated aqueous trehalose solution is another thing which

produces a different and non-obvious result. A concentrated aqueous trehalose solution is not used in the present invention for enabling a food material to be dried and heated, but is used for heating and dehydrating a food material to obtain non-fried food product which simulates a fried food product in taste and mouth-feel and stably retains the color tint inherent to that food material.


Furthermore, as recited in the amended claim 1, the resulting non-fried and dehydrated food product is swelled or deformed with respect to the original shape. Roser never teaches such a food product at all. Reconsideration and withdrawal of the rejections are respectfully but strongly solicited.

Favorable reconsideration, entry of the amendments presented above and allowance are earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicants

By



Sheridan Neimark

Registration No. 20,520

SN:jaa  
Telephone No.: (202) 628-5197  
Facsimile No.: (202) 737-3528  
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